

REMARKS

Claims 1-4 are pending in the present application. Reconsideration of the claims is respectfully requested.

I. 35 U.S.C. § 102, Anticipation

The Examiner has rejected claims 1-4 under 35 U.S.C. § 102(b) as being anticipated by Kail (US Patent No. 6,102,797). This rejection is respectfully traversed.

In rejecting claim 1, the Examiner writes:

Kail teaches a game of chance played in conjunction with sports contests, a plurality of pre-printed game cards with sports events and predicted outcomes (see abstract, figure 1 & col. 2, lines 40-43), determining actual statistics of the sports event (col. 2, lines 44-48) and the awarding of prizes col. 3, lines 46-67).

In response to the Applicant's previous response, the Examiner also writes:

The cited reference to Kali teaches that his game cards are available free without the payment of his entry fee (see col. 3, lines 10-16). Applicant's amendment fails to place the application is condition for allowance since all the limitations of the claims have been met.

A close reading of Kali reveals that it does not in fact teach all of the limitations of the claimed invention. Furthermore, the Examiner's interpretation of the Applicant's previous amendment mischaracterizes the nature of both the claimed invention as well as Kali's invention.

Specifically, Kali teaches that participants in the game must fill in their predictions regarding the outcome of the sporting event in question:

Participants receive a game card identifying a principal set of sporting events, such as six baseball games to be played on a given day, or over a weekend, and the participant enters a number that is the predicted value of the sum or total of the scores of the two teams for each event. (Col. 2, lines 50-54)

In a preferred embodiment of the invention, a game card must be completed with at least one appropriate entry for each game to be accepted for play and entry in the central computer with a unique data entry transaction code. (col. 6, lines 1-4)

In contrast to this feature, the claimed invention has the final outcomes pre-printed on the cards without input from the participants. The Examiner's response to Applicant's previous arguments did not specifically address this point of distinction.

Furthermore, participation in the Kali game requires that participants pay an entry fee:

As in the case of prior art lottery systems, the remote terminal can be operated by an authorized agent, i.e., a news-stand clerk, who enters the participant's predicted score data into a dedicated terminal that is connected to the central computer via telephone lines. Data entry can be by keyboard, electronic scanning of the appropriate marked card, or other means. The authorized agent collects the entry fee in cash and provides the participant with a printed receipt confirming the predicted scores, fee payment and unique transaction code based on data generated by the central computer. (Col. 7, lines 1-11)

In a preferred embodiment of the invention, the central computer is programmed to calculate the fee from data entered via keypad or optical character reader at a remote terminal to display the amount of the fee at the remote terminal for the purpose of informing the participant of the fee due. In order to proceed with the transaction, the program requires the entry of a confirmation that the participant has paid the fee, if the transaction is in cash. If a participant's debit or credit account is to be billed for the fee, the central computer is programmed to compare the fee due with the participant's account balance and/or credit limit to confirm that the fee can be paid or charged without exceeding such limit. If sufficient funds are not available, a message to that effect is transmitted for display at the remote terminal and the transaction is terminated. If funds are available, entry of a confirmation is required at the remote terminal indicating the participant's approval and agreement to have the fee charged to his credit or debit account. (col. 7, line 52- col. 8, line 2)

Though the game cards in Kali may be distributed free of charge, participation in the game is not. The Examiner is taking this specific feature of Kali out of context, and in doing so is misinterpreting both Kali and claim 1. Participation in the Kali game requires that participants fill out the game cards with their predictions as to the sporting events' outcomes and then pay an entry fee in order for those predictions to be entered into the game's computer and make the participant eligible to receive prizes.

In contrast to Kali, the claimed invention does not require a participation fee. The predicted outcomes of the sporting events are pre-printed on the cards, and the cards are then distributed free of charge. The final element of claim 1 recites:

awarding a prize corresponding to a game card if at least one predicted final statistics pre-printed on that game card for a sport contest is identical to the actual final statistics of said sport contest.

There is no requirement to pay a fee in order to be eligible to collect prizes. Therefore, mere possession of the game card is enough for participation in the game, without the need to pay an entry fee. Applicant believes this is clear from the language of claim 1 taken as a whole.

Since claims 2-4 depend from claim 1, and thus include all of the limitations of claim 1, they are distinguished from Kail for the same reasons explained above regarding claim 1.

Therefore, it is respectfully asserted that the rejection of claims 1-4 under 35 USC § 102 has been overcome and should be withdrawn.

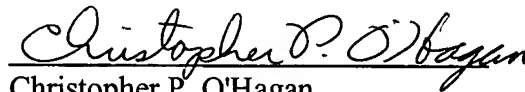
Conclusion

It is respectfully submitted that the claims are now in condition for allowance and are patentable over the cited prior art references.

The examiner is invited to call the undersigned or Colin P. Cahoon at the below-listed telephone number if in the opinion of the examiner such a telephone conference would expedite or aid the prosecution and examination of this application. The Commissioner is hereby authorized to charge any additional payment that may be due or credit any overpayment to Deposit Account No. 50-0392.

Date: 3/7/05

Respectfully submitted,



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